

FINAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 63-102(i)(6)

Specific Purpose:

This section is being amended to clarify and define in more detail the meaning of “Indigent Noncitizen.”

Factual Basis:

Final federal rules at 7 CFR 273.4(c)(3)(iv) define an “Indigent Noncitizen” as an individual who is unable to obtain food and shelter taking into account the noncitizen’s own income plus any cash, food, housing, or other assistance provided by other individuals, including the actual income given by the sponsor. If the sum of this income is less than 130 percent of the poverty guideline for the household size, the sponsored noncitizen is determined to be indigent.

Section 63-102(n)(5)

Specific Purpose:

This section is being adopted to define a “Notice of Missed Interview (NOMI).” This is a new form (DFA 386) and process for county welfare departments (CWDs), and it is referred to in these regulations.

Factual Basis:

Final federal rules at 7 CFR 273.2(e)(3) provides that CWDs must notify a household that it missed its first application interview, and that the household is responsible for rescheduling another appointment within 30 days of the household’s application date. The CWD can deny the application on the 30th day following the application date if the household does not reschedule, and only after the NOMI has been sent to the applicant as a reminder to reschedule the missed appointment.

Section 63-102(r)(11)

Specific Purpose:

This section is being adopted to incorporate the term “Request for Information (RFI)” and to provide a new procedure imposed on CWDs to issue the RFI to recipients during the food stamp certification period if information needs clarification. RFI is also referred to in these regulations.

Factual Basis:

Final federal regulations at 7 CFR 273.12(c)(3)(i) requires that, during the food stamp certification period and when information or household circumstances is unclear, a RFI must be issued to the household by the CWD. The RFI must clearly advise the household of the verification it must provide or the action it must take to clarify its circumstances. The RFI also informs the household that it has 10 days to provide the information before the CWD terminates or denies the food stamp case.

Section 63-103.2d.(15)

Specific Purpose:

This form is amended to indicate that a food stamp household must be denied if it failed to reschedule a second interview prior to the 30th day after application. If the household does not reschedule, a denial notice is sent on the 30th day following the date of application.

Factual Basis:

Federal regulations at 7 CFR 273.2(e)(3) state that a case cannot be denied prior to the 30th day after application for a first missed interview. A Notice of Missed Interview must be sent to the applicant stating that they must reschedule another appointment before the 30th day after their application date, or their application will be denied on the 30th day. This section is necessary to incorporate by reference the necessary forms pursuant to the California Code of Regulation, Title 1, Chapter 1, Section 20. These forms are not printed in CDSS’ Manual of Policies and Procedures because it would be cumbersome and impractical. However, these forms are readily available to the users from CDSS.

Section 63-103.2d.(29)

Specific Purpose:

This is a new form developed by the Department to satisfy the requirement to notify the food stamp applicant that it missed its first scheduled interview, and must reschedule it before the 30th day after the application date.

Factual Basis:

Federal regulations at 7 CFR 273.2(e)(3) require that a Notice of Missed Interview (NOMI) must be sent to the applicant when the applicant misses the first scheduled interview. It notifies the applicant household that it must reschedule the appointment prior to the 30th day after application or the case will be denied on the 30th day following the date of application. This section is necessary to incorporate by reference the necessary forms pursuant to the California Code of Regulation, Title 1, Chapter 1, Section 20. These forms are not printed in CDSS' Manual of Policies and Procedures because it would be cumbersome and impractical. However, these forms are readily available to the users from CDSS.

Section 63-103.2d.(30)

Specific Purpose:

This is a new form developed by the Department to satisfy the requirement in federal rules to notify the recipient of information it must clarify and to provide at least 10 days from the request for information for the recipient to respond.

Factual Basis:

Federal Regulations at 7 CFR 273.12(c)(3) requires the CWD to send a request for information which advises the food stamp household of the verification the household must provide to clarify unclear information for eligibility determination purposes. The household must be afforded at least 10 days to respond to the request. If no response is received by the CWD, the food stamp case can be terminated. This section is necessary to incorporate by reference the necessary forms pursuant to the California Code of Regulation, Title 1, Chapter 1, Section 20. These forms are not printed in CDSS' Manual of Policies and Procedures because it would be cumbersome and impractical. However, these forms are readily available to the users from CDSS.

Sections 63-103.2d.(29) through (31)

Specific Purpose/Factual Basis:

These sections are renumbered to Sections 63-103.2d.(31) through (33) to allow for the inclusion of the new forms.

Section 63-300.4 et seq.

Specific Purpose:

This section is being amended to make clear that a face-to-face interview can also take place, if not in the food stamp office, at other mutually acceptable locations, including a household's residence. If the interview will take place in the household's residence it must be scheduled in advance with the household.

Factual Basis:

The amendment of this section is necessary to comply with final federal rules at 7 CFR 273.2(e)(1). In-office interviews are not required and may be conducted at other mutually acceptable locations, including a household's residence. An interview must be scheduled in advance with the household if it is to take place in the household's residence.

Section 63-300.45

Specific Purpose:

This section is being amended to clarify that CWDs must take into account the special needs of households, such as working households, when scheduling interviews. Also, if a scheduled interview is missed, the household must be reminded to reschedule it.

Factual Basis:

This amendment is necessary to comply with final federal regulations at 7 CFR 273.2(e)(3), which states that the CWD must notify each household that their first scheduled interview was missed, and inform the household that it is responsible for rescheduling another interview.

Section 63-300.451

Specific Purpose:

This section is being adopted to comply with the federal mandate for issuance of a NOMI by the CWD, and the timing for denial of a food stamp case if the household does not respond to the informing notice.

Factual Basis:

Final federal regulations at 7 CFR 273.2(e)(3) require the CWD to notify or remind a household that it missed its first scheduled interview, and the household is responsible for rescheduling another prior to the 30th day after the household's application. The CWD may not deny a household's application if the household fails to appear for the first scheduled interview. A NOMI must first be issued giving the household a reminder to reschedule the interview within the 30 days time frame from their application date. If the household fails to reschedule, the CWD can issue a denial notice on the 30th day.

Section 63-300.451(d)

Specific Purpose:

This section is repealed for clarity. The action the CWD must take if a second interview is not rescheduled by the applicant is more fully discussed in new Sections 63-300.451 through .453.

Factual Basis:

Final federal regulations at 7 CFR 273.2(e)(3) require the CWD to notify or remind a household that it missed its first scheduled interview. Therefore, the CWD is required to take action when the first interview is missed. This section states that the CWD need not take further action, which is an incorrect statement and, therefore, it is repealed from regulations. The CWD must send a NOMI when the first scheduled interview is missed.

Section 63-300.452

Specific Purpose:

This section is being adopted to require proration of food stamp benefits from the date of application if the household requested a second interview within 30 days of their application, and they were determined to be eligible for food stamp benefits.

Factual Basis:

The adoption of this section is necessary to comply with final federal regulations at 7 CFR 273.2(e)(3). Food stamp benefits must be prorated from the date of application when the household reschedules a second application interview within 30 days of their application date, and the household is found eligible for benefits.

Section 63-300.453 and Handbook

Specific Purpose:

This section is being adopted to clarify that a denial notice will be issued to the household if it misses its second scheduled application interview. The Handbook section clarifies that during a recertification for benefits, the NOMI and a denial notice can be combined on one notice. Handbook is added for clarification of the NOMI process.

Factual Basis:

Final federal rules at 7 CFR 273.2(e)(3) require that the household be denied food stamp benefits on the 30th day following their application if the household missed its second scheduled interview. The denial notice cannot be sent prior to the 30th day. The Handbook section is necessary to clarify that at initial application the notice to inform the household of a missed interview and a denial notice cannot be combined onto one adverse notice. However, at recertification, the notice to inform of the missed interview and the denial can be combined onto one adverse notice. Also, Handbook provides examples of the NOMI process.

Section 63-300.454

Specific Purpose:

This section is amended to clarify that an in-office interview is not required.

Factual Basis:

Final federal rules at 7 CFR 273.2(e)(10) requires face-to-face interviews, but are not required to have them take place in the CWD office.

Section 63-300.455 and Handbook

Specific Purpose:

This section is being amended to clarify that face-to-face interviews during the certification period can be scheduled to occur at the food stamp office, but the CWD may not require it. The Handbook section gives an example of what cannot be required and restates that during the certification period there is no other reason for requiring an in-office face-to-face interview with the household.

Factual Basis:

This section is amended to comply with 7 CFR 273.2(e)(3) which states that CWDs may not require households to report for an in-office interview during their certification period, though they may request households to do so. If a mutually agreeable location for a face-to-face interview during the certification period cannot be agreed upon, then the interview will take place in the food stamp office.

Section 63-300.5(a)

Specific Purpose:

This section is being amended to relocate some of the regulations to Section 63-300.5(a)(1) for clarification.

Factual Basis:

The amendment is necessary to relocate some of the regulations to Section 63-300.5(a)(1) to clarify the different procedures for verification of facts in the application and the recertification processes. Section 63-300.5 now gives less specific information regarding applications and discusses verification in general.

Section 63-300.5(a)(1)

Specific Purpose:

This section is being adopted to clarify that denials for failure of the applicant to provide verification can be sent by the 30th day following the application date. This is not a new provision, but for administrative clarification it is relocated from verification procedures for denying a food stamp case during the certification period, which has changed.

Factual Basis:

This section is necessary to clarify that the process for denying the application for failure of the applicant to provide verification differs from how it is done during the certification period as described in Section 60-300.5(a)(2). The requirement to send a denial notice for failure of the applicant to provide verification can be sent by the 30th day following application and is not a new provision.

Section 63-300.5(a)(2) et seq.

Specific Purpose:

These sections are being adopted to explain a new procedure for verifying unclear information during the certification period.

Factual Basis:

These sections are necessary to comply with final federal regulation 7 CFR 273.12(c)(i), (ii) and (iii). The CWD must send a written RFI when unclear information needs verification or clarification during the certification period. The CWD must inform the recipient of the verification it must provide or the actions it must take to clarify its circumstances. The CWD must provide 10 days for the household to respond. If the verification is not received in 10 days, the household will be denied. If information is provided, the CWD must act on any changes in accordance with the procedures for increasing and decreasing benefits, which are already provided in state regulations.

Section 63-301.32

Specific Purpose:

This section is being amended to clarify that after a missed application interview a NOMI must be sent to the applicant household reminding them to reschedule the missed appointment, and consequences for not doing so.

Factual Basis:

This amendment is necessary to comply with final federal regulations at 7 CFR 273.2(e)(3) which provides for denying the food stamp case on the 30th day after the application date if a second interview is missed. This section complies with the requirement to prorate benefits from the date of application when the second interview is kept, and the applicant is determined eligible for benefits.

Section 63-301.34

Specific Purpose:

This section is repealed from regulation and put into handbook because it restates in an easy to read format the processing procedures for denying applications. This section is also being amended to update the processing procedures for the missed interviews at application.

Factual Basis:

This section is being amended to comply with final federal regulations at 7 CFR 273.2(e)(3) or first missed interviews and the need for the CWD to issue a NOMI to the household. It is also necessary to update this section to clarify that the denial cannot be sent prior to the 30th day after the application date, and that benefits will be prorated from the date of application when the household is found eligible after the second interview occurs. This is procedural and is being removed from regulations and placed into handbook.

Section 63-301.42

Specific Purpose:

This section is being amended to clarify the difference between how denials are sent for missed interviews and failure to provide requested verification.

Factual Basis:

Final federal rules at 7 CFR 273.2(e)(3) state that denials for a second missed interview must be sent no earlier than on the 30th day following the application date. Clarification is added to specify that denials for failure to provide verification can be sent by the 30th day following the application date, which is not a new provision.

Section 63-301.441(c)

Specific Purpose:

This section is being amended to update the process for delayed actions to include the information for missed interviews. It is also procedural in nature and is being removed from regulation and placed in handbook as a guideline to CWDs.

Factual Basis:

This section is being amended to comply with final federal regulations at 7 CFR 273.2(e)(3) for the purpose of updating the information for missed interviews. Specifically, to update the information for actions to be taken when the household does not schedule a second interview at application, and to emphasize that a denial for failure to provide verification can be sent by the 30th day following the date of application.

Section 63-503.492(d) et seq.

Specific Purpose:

These sections are being amended to include the provisions for determination of indigent noncitizens, and to add the 12-month renewable periods for indigent determinations. Sections 63-503.492(d)(1)(i) and (ii) are being renumbered for clarity.

Factual Basis:

These sections are being amended to comply with final federal regulations at 7 CFR 273.4(c)(3)(iv), which expands the current indigent definition to sponsored noncitizens who have income below 130 percent of the poverty level for the household size. The federal regulation states that during a 12-month indigent period, which is renewable for 12-month periods, the only income attributed to the sponsored noncitizen is the actual income given by the sponsor and others, including values for in-kind amounts. The normal deeming provisions for sponsors is suspended during any 12-month period in which there is an

indigent determination. In addition, the federal regulation requires the Attorney General to be notified by the CWD of each such indigent determination by providing the name of the sponsor and the name of the sponsored noncitizen.

b) Identification of Documents Upon Which Department Is Relying

7 CFR 273.2

7 CFR 273.4

7 CFR 273.12

Federal Register, Vol. 66, No. 229, November 28, 2001

c) Local Mandate Statement

These regulations impose a mandate on county welfare departments but not on school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because these regulations implement the Federal mandate contained in 7 CFR Sections 273.2, 273.4 and 273.12, and Federal Register, Vol. 66, No. 229, November 28, 2001.

d) Statement of Alternatives Considered

CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

f) Testimony and Response

There was neither written testimony received nor oral testimony presented as a result of this regulation at the May 23, 2002 public hearing.

g) 15-Day Renotice Statement

A 15-day renotice was not required because there were no changes following the public hearing.